

AUG 13 2018

CLERK, US BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
Tampa DIVISION

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UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA-ORLANDO

In Re:

Case No. 17-2004-KSJ

Chapter 11

RONALD EARL SCHERER, SR.,

Honorable Karen S. Jennemann

Debtor.

**MICHIGAN DEPARTMENT OF TREASURY'S OBJECTION TO DEBTOR'S  
PLAN OF REORGANIZATION, FILED 06/28/18 (Docket No. 283)**

The State of Michigan, Department of Treasury, by its attorneys, Bill Schuette, Attorney General for the State of Michigan and Suann Cochran, Assistant Attorney General, objects to Debtor's Amended Plan of Reorganization, filed on June 28, 2018 (Docket No. 283), as follows:

1. Debtor filed its petition for bankruptcy under Chapter 11 of the Bankruptcy Code on March 29, 2017.
2. The Michigan Department of Treasury filed a Proof of Claim in this case on June 21, 2017.
3. The Michigan Department of Treasury filed an Amended Proof of Claim in this case on or about July 5, 2018, as follows:

Priority:	\$3,569.49
Unsecured:	\$3,898.53
4. Under Article 4.03, or any part of the proposed plan, the Michigan Department of Treasury does not object to the sequence of payments that Debtor

chooses, so long as the payments do not extend beyond a period of 5 years. 11 U.S.C. §1129(9)(C).

5. Under Article 4.03, the proposed plan provides an interest rate for priority tax claims at Prime Rate as published daily in the Wall Street Journal. The proposed plan fails to provide the applicable non-bankruptcy law interest rate of 5.15% for the Michigan Department of Treasury's priority claim. If the Priority Tax Claim is not paid on the Effective Date, 11 U.S.C. § 1129 requires the debtor make regular installment payments which include interest at the rate determined under applicable non-bankruptcy law. Specifically, 11 USC § 511 determines the rate of interest on tax claims:

If any provision of this title requires the payment of interest on a tax claim or on an administrative tax, or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate determined under applicable non-bankruptcy law.

As mentioned above, the Department of Treasury's current interest rate for bankruptcy tax claims is 5.15%.

6. The proposed amended plan fails to comply with 11 USC 1123(a)(5)(G) which requires that a plan "provide adequate means for the plan's implementation," including "curing or waiving of any defaults." Here, amended plan fails to specify the remedies available to tax creditors in the event of a default under the proposed amended plan. This defect may be cured by the addition of language such as the following:

**Upon the failure of the debtor to make any payments due on a priority or secured tax claim that is not**


**cured within 30 days of a written notice of default by the Creditor, *such Creditor may exercise all rights and remedies available under non-bankruptcy laws for the collection of its entire claim and /or seek appropriate relief in this Court.***

### **CONCLUSION AND REQUESTED RELIEF**

Given the above objections, the State of Michigan Department of Treasury cordially requests that confirmation of the Plan of Reorganization, filed 06/28/18, be denied and that the State of Michigan Department of Treasury be granted such relief as just and proper.

Respectfully submitted,

BILL SCHUETTE  
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for the State of Michigan

/s/ Suann D. Cochran   
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Dated: July 2, 2018

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA - ORLANDO

In Re:

Case No. 17-02004-RAC

RONALD EARL SCHERER SR.,

Chapter 11

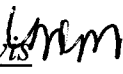
Debtor(s).

Honorable Roberta A. Colton

**PROOF OF SERVICE**

The undersigned certifies that on July 13, 2018, a copy of the Michigan Department of Treasury's Objection to Debtor's Plan of Reorganization, Files 06/28/18 (Docket 283), was/were served upon the following parties either electronically or by depositing said copies in the U.S. mail, postage prepaid:

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/s/ Marita McDavis   
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Dated: July 13, 2018